



# TTIP

## WHY THE REST OF THE WORLD SHOULD BEWARE<sup>1</sup>

The Transatlantic Trade and Investment Partnership (TTIP) is a comprehensive free trade and investment treaty currently being negotiated – practically in secret – between the European Union (EU) and the United States of America (US). It could have massive implications for people and the environment on both sides of the Atlantic. The stakes couldn't be higher, and not only for Europeans and Americans, but also for the rest of the world, which would be affected in many different ways by this agreement between these two superpowers of trade. The objectives of TTIP go well beyond intentions to solidify the Anglo-Saxon neoliberal model. It is a geopolitical strategy to confront the emergence of a multipolar world.

In this paper, we explore from various angles why human rights, environmental, consumer advocate and many other types of organizations all over the world that are working toward a world different from the corporate-led neoliberal dogma, should pay special attention to TTIP.

We offer here a summary.



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## 1/ TTIP SEEKS TO UNDERMINE THE HISTORIC RESISTANCE TO US AND EU INTENTIONS TO IMPOSE A GLOBAL MODEL OF FREE TRADE AND INVESTMENT

The massive trade agreements currently in negotiation – the Transpacific Partnership between the US and countries around the Pacific and TTIP – are an attempt to revive the agenda of deregulation and “free trade” promoted by the US and the EU in the past, but which has failed to a large extent at the multilateral and global levels thanks to the opposition of governments of the Global South and civil society action all over the world. Some of the most important and glaring examples include the failure to conclude a Multilateral Agreement on Investment (the MAI) at the OECD in 1999, the failure to introduce the “Singapore Issues” (such as investment protections) at the WTO, the subsequent failure of the Doha Round, the failure to pass massive, large-regional and inter-regional free trade agreements like the Free Trade Area of the Americas (2004) and a replica of it for the European Union (a EU–LAC agreement). The plan for a transatlantic free trade agreement that sets the “gold standard” for investment protections is thus being resumed and promoted by both negotiating parties. But the objectives of TTIP go well beyond the intentions to solidify the Anglo-Saxon neoliberal model. It is first of all a geopolitical strategy to confront the emergence of a multipolar world. This is why the former Secretary of State of the United States Hillary Clinton has described TTIP as an “economic NATO”.

## 2/ THE EU AND THE US AIM TO SET GLOBAL STANDARDS ON TRADE AND INVESTMENT AND IMPOSE THEM ON THE WORLD

TTIP is a corporate-led project, and both the US and the EU have explicitly stated that they view it as a way to set the standard for multilateral and bilateral negotiations. Its proponents see TTIP as an opportunity to revive the failed agenda among developed countries to set global rules that privilege investors over sovereign decision-making which acts in favor of the public interest. The promoters of Investor-State Dispute Settlement (ISDS) mechanisms and other investment protections find in TTIP an opportunity for its expansion. There is a plethora of statements indicating that an ultimate intention of TTIP is to set the template for future bilateral, plurilateral and multilateral trade agreements by virtue of the fact that any provisions agreed between the US and EU would set the “gold standard” of investment protection and other rules globally. TTIP is also an opportunity for the imposition of other US- and EU-led agreements like the Trade in Services Agreement (TISA), being negotiated by 47 countries (27 of them in the EU) and that seeks to deregulate and promote the privatization of public services. The TISA would find in TTIP a great point of leverage. Other agreements currently at an impasse at the WTO mainly because of concerns of the Global South, like the Trade Related Intellectual Property Rights Agreement (TRIPS), would find TTIP as a major enabler for the EU and the US in global negotiations. TTIP could also set the “gold standard” for Intellectual Property rules which, over time, developing countries would be pressed to adopt, compromising access to health, cultural participation, and free expression.

## 3/ REGULATORY COOPERATION IN TTIP AS A THREAT TO THE GLOBAL SOUTH

TTIP will be a so-called “living agreement,” which means that new rules for trade can be developed by the two involved parties, the US administration and the European Commission, even after ratification of the treaty. The idea is to establish a Regulatory Cooperation Body with working groups which will take care of the future development of trade-related rules. The establishment of this regulatory body will pose serious challenges to the democratic structure. Before the parliaments will receive legislative proposals from their administrations, these administrations themselves will have had intensive dialogues with “stakeholders” from both sides of the Atlantic, i.e. the big trans-national corporations (TNCs), on the content of the regulations. The big corporations will thus enjoy extremely enhanced chances of getting their desired rules implemented. Furthermore, this can lead to a “chilling effect” (by using the needed impact assessments) for regulatory work in cases where an unregulated environment better suits the interests of the TNCs. Neoliberal think tanks ask for the inclusion of developing countries in this North Atlantic regulation process. But it is easy to imagine what the balance of power between the US, the EU and the respective



countries of the Global South would look like. The TNCs of the old capitalist economies will press the public administrations, especially those of the global South, against the wall, and the countries of the Global South will be, in the end, co-opted into an unbalanced rule-setting system which is a priori structured against the interests of their people.

#### 4/ TTIP AND FINANCIAL SERVICES

One of TTIP's purposes is to facilitate the free flow of capital. In addition to the liberalization of services (privatization) and investment protections, TTIP could include a chapter on financial services deregulation. While the US is not so enthusiastic on a new framework for "regulatory cooperation" for financial services in TTIP, the European Commission (EC) is, in order to avoid future regulations creating new barriers to trade in financial services, and facilitate "efficient markets" for financial firms. According to Finance Watch, the EC's objectives could mean that regulations will be discussed between EU and US regulators before they are proposed to parliaments, putting pressure on democratic procedures. In the meantime, there are no objectives to provide better services to citizens, or to ensure that the financial needs of the economy (including SMEs) are being served. Additionally, the proposed enhanced cooperation in regulation is not matched by an equivalent proposition to improve the cooperation on supervision, a step that would be essential to guarantee financial stability. According to the Centre for Research on Multinational Corporations (SOMO), this can only serve to attack the rights of parliaments to regulate, undermine ongoing financial reforms for the prevention of financial crisis, and to help the interests of the financial industry. But the real intention is to ensure that the standards decided by the EU and the US on financial regulation are imposed on the rest of the world. The purpose of the EU would be to work closely with the US in international bodies to develop international standards that other countries would be forced into.

#### 5/ THE EU AND THE US ATTEMPT TO ESTABLISH "COMMON VALUES," UNDERMINING AND MARGINALIZING NON-PARTICIPANT COUNTRIES. (DO THE US AND THE EU REALLY HAVE "COMMON VALUES"?)

Ever since the launch of the negotiations, TTIP has been promoted not only as a source of a major economic boost leading to growth and job creation, but also as a means to reassert the allegedly common "civilizational" values shared by "Europe" and "America" (or in other words to reaffirm their common Western culture, which is purportedly the heritage of the Enlightenment and democratic principles). However, there are stark differences when it comes to "values." The discussion between the US and Europe and how these values relate to the rest of the world go beyond issues of "democratic governance," where they consider themselves the examples to follow, and into the realm of the vision of the role of the state, of the provision of public services, of the pre-eminence of human rights over corporate rights. The neoliberal laissez-faire, Anglo-Saxon model and the social democrat model (until recently more prevalent in Europe) based on the notion of the obligation of the state to guarantee the provisions of basic services to the population, are in direct confrontation with each other in the struggle today against forced austerity measures in Europe. Ultimately, in stark contrast with European countries –and most of the world for that matter– which have signed and ratified most of the 18 International Human Rights Treaties, the US have signed only 9 and ratified only 5 of them. It is therefore far from clear what the common "transatlantic values" are and, moreover, the closed and non-transparent negotiations make it much less clear that the world should be ruled by the "common values" trumped by the European and American promoters of TTIP, who are negotiating this agreement on behalf of corporate imperatives.



## 6/ TTIP AS A RESPONSE TO THE EMERGENCE OF CHINA, THE BRICS, AND OTHER EMERGENT COUNTRIES AND ITS IMPACT ON MULTILATERAL TRADE (AND TRADE RELATED) NEGOTIATIONS

According to several analyses, the main reason why the EU and the US have embarked upon the ambitious objective of achieving TTIP is above all geopolitical. The rise of China (and other Asian countries), combined with the relative decline of the US and the economic crisis of the Eurozone, is pushing the transatlantic West to use its combined economic and political preponderance to write new global trade rules according to its neoliberal economic imperatives and political principles. Given the global shifts of power, also represented by the increasing bolstering of the BRICS countries, it is no wonder that the hidden agenda of TTIP has been described by some as the “West against the Rest” strategy to shore up a US–European alliance against the threat posed by emerging economies in trade and investment negotiations. In the longer term, the major risk with respect to multilateralism derives from the fact that in an age of an uncertain globalization process and an unclear “new world order,” TTIP, in its intention to cement the latter based on the Western supremacy (see chapter above about “common values”), would actually exacerbate the rivalry of economic blocs and thus deepen the present economic and institutional global crisis.

## 7/ TTIP AS LEVERAGE FOR THE US AND EU BILATERAL AND INTER-REGIONAL NEGOTIATIONS (I.E. THE TRANSPACIFIC PARTNERSHIP AGREEMENT, THE EU– MERCOSUR NEGOTIATIONS, EU–ASEAN, ETC.)

While the economic impact on developing countries is uncertain, TTIP poses a menace to the global trading system and would weaken the voice that developing countries could have in setting new standards in multilateral, regional and bilateral trade and investment rules. For example, US and EU officials have openly acknowledged that a major motivation for including investor-state dispute settlement (ISDS) in TTIP is to avoid weakening their hands in negotiations with emerging market countries. The US and the EU find in TTIP an instrument to confront together emerging models of self-determination with increased South–South interrelations, and to continue their intention to impose their model of dependence on Western hegemony. TTIP has as an objective to serve as the leverage point for the US and the EU in all pending regional and bilateral trade and investment negotiations, including the Transpacific Partnership (TPP) that the US is negotiating with 11 other countries in the Pacific Basin, and inter-regional agreements being negotiated by the EU, as with Mercosur, and other EU bilateral agreements with India, Malaysia, Vietnam, Thailand and Morocco, among others.

## 8/ TTIP CONTRADICTS EU PRO-DEVELOPMENT RHETORIC AND POLICY COHERENCE FOR DEVELOPMENT, AND GLOBAL EFFORTS TO OVERCOME POVERTY

TTIP and the European Union’s trade and investment policies towards third countries contradict its pro-development and human development rhetoric and its Policy Coherence for Development (PCD), embedded in the European Consensus on Development, which aims to take into account development cooperation objectives in non-development policies (like trade). Although the purpose of TTIP is to extend its policies and clauses to the rest of the world, thus far not only have all third countries been excluded from the negotiations, but practically no consideration has been given to its potential impacts on them. A closed agreement is only cementing the view that the two powers are not supportive of the developmental goals and needs of the Global South. If there are fears of the harm that this agreement would cause to the European or US populations, it is evident that such policies extended to developing countries will contradict the Lisbon Treaty disposition that requires the EU to ensure that all its policies are coherent with the



objective of eradicating poverty globally. There should also be increased coherence with global efforts to overcome world poverty and the Post 2015 Agenda for the Millennium Development Goals. Despite commitments to enhance coherence of development, financial, monetary, trade, investment and other key policies, global economic policymaking remains fragmented and incoherent. TTIP exemplifies the obliviousness of all these commitments for coherence.

### **9/ TTIP WOULD PUT PRESSURE ON OTHER COUNTRIES AGAINST “LOCALIZATION BARRIERS TO TRADE” MEASURES, AND WEAKEN POLICY TOOLS TO FOSTER LOCAL DEVELOPMENT (CONTRADICTING THE EUROPEAN CONCEPT OF “SUBSIDIARITY”)**

All over the world, communities and nations are developing new ways to rebuild local economies, making sure governments from the local to the national level support measures to prioritize local development – also known as localization. Early reports from TTIP negotiations include an unprecedented new proposal by the US government that seeks to target localization, particularly in emerging economies. This proposal would formally commit the US and the EU governments to work together to pressure other countries to eliminate rules designed to favor local economic development. These rules are defined by the US Trade Representative’s (USTR) as barriers to trade such as measures designed to protect, favor, or stimulate domestic industries, service providers, and/or intellectual property (IP) at the expense of goods, services, or IP from other countries. US corporations are also weighing in on their priorities for “cooperation” on localization, some targeting tariff barriers to exports of their products, others stressing specific challenges to several countries’ programs to balance exports of raw materials with programs designed to promote domestic processing and local industry. The US and EU should discard this dubious proposal. Instead, they should find ways to embrace localization, starting with making unilateral trade preference programs like the GSP permanent measures, outside the possibility of such meddling. The European Union in particular should honor its principle of subsidiarity as defined in Article 5 of the Treaty on European Union. It ensures that decisions are taken as closely as possible to the citizen and that constant checks are made to verify that action at the Union level is justified in light of the possibilities available at the national, regional or local levels.

### **10/ TTIP IS A FRONTAL ATTACK ON STATE-OWNED ENTERPRISES (SOES) AND OTHER GOVERNMENT-CONTROLLED ENTITIES**

One of the fundamental objectives of the US in TTIP is to constrain the role of states – including those of third parties – in their economies. The USTR seeks to establish disciplines on state-owned enterprises (SOEs) to reduce what it considers to be “trade distortions” that put its corporations at a disadvantage. Rules on SOEs in TTIP are seen by the US to be a model to third country markets around the world. This isn’t new. The US has been adamant to install “competition rules” (one of the “Singapore issues” rejected by governments of the South) in the WTO since before the Doha round. The US intention to see SOEs constrained and rolled back is a key concern not only within social democratic traditions in Europe but among third countries that seek to compete globally with US and EU transnationals, with their own self-defined interests, including the degree to which the state and governments – nationally and locally – should foster economic development. The pressure against SOEs is a challenge to both BRICs and the Global South for which a good degree of their competitive power derives from the fact that the state plays a very significant role in supporting domestic and state industries.



## **11/ TTIP COULD HAVE AN ENORMOUS ECONOMIC IMPACT ON OTHER COUNTRIES, INCLUDING MARKET ACCESS TO THE EU AND THE US, FOR LDCS (IMPACT ON PREFERENTIAL TREATMENT PROGRAMS)**

Although the effects are very difficult to measure (let alone predict), study after study demonstrate that a change of rules agreed in TTIP could potentially hinder foreign countries' market access to the EU and the US. Most studies seem to agree that removal of non-tariff barriers to trade among them, particularly through regulatory harmonization will have the most adverse impacts on non-TTIP parties. A study commissioned by the European Parliament affirms that preferential partners of both the EU and the US may face severe losses should the deal be finally concluded with full liberalization. TTIP is also likely to produce effects on trade patterns involving preferred EU and US trading partners, notably Mexico and Canada, which are tied to the US by the North American Free Trade Agreement (NAFTA), as well as the DR-CAFTA countries. Europe's neighbours and southern Mediterranean countries may also face dramatic changes brought on by TTIP, as would many developing countries, which could face "preference erosion" if the EU-US deal enters into force. Although TTIP is being negotiated in Brussels and Washington, its ripples will be felt globally, and despite its global implications, the US and the EU have locked out even their main trading partners from the talks. Some studies concur as well that North and West Africa will be especially affected, since they traditionally have extensive trade relations with Europe. While scores of countries may potentially lose access to US and EU markets, these will continue pushing with aggressive market-access strategies globally.

## **12/ TTIP AND GLOBAL FOOD SAFETY STANDARDS**

There is little doubt that any food safety and other standards agreed to in TTIP would have enormous influence on global rules. It is not clear how TTIP would affect existing food safety or related standards, but it would likely impede new regulations, including those on the use of emerging technologies like nanotechnology or synthetic biology in foods. More broadly, the danger is that rules established in TTIP on GMOs, antibiotics in meat, dubious food additives such as ractopamine (which is currently banned in 160 countries, but not the US) and other food safety issues would be biased toward promoting trade rather than food safety. Decisions reached by the US and EU in TTIP would almost certainly influence global norms without providing other countries a seat at the table. If the world's two largest markets agree that GMOs should be freely traded, for example, local efforts to rein in their use in developing countries would become much more difficult. Overall, the impact would be to consolidate corporate power over agriculture and food systems and limit the ability of governments to ensure safe food. Under TTIP, the ability of firms operating in the US or EU to dictate terms all along the supply chain would become even stronger. Local efforts for food sovereignty (to rebuild food systems so that they respond to specific livelihood, cultural and climatic conditions) could be pushed aside by the "TTIP steamroller."

## **13/ TRADE OF ENERGY UNDER TTIP AND THE ENDANGERMENT OF EFFORTS TO TACKLE CLIMATE CHANGE**

For proponents of TTIP, it is in the interest of North America and Europe to see open and liquid energy markets develop across the Atlantic, and eventually in Asia (and indeed globally) as the best way to fuel economic growth in the future. German Chancellor Angela Merkel herself has said that the biggest benefit of TTIP could be facilitating trade in energy. The US President, Barack Obama, has said that the US have already approved licenses for natural gas exports, which will increase global supply and benefit partners like Europe, and that TTIP would make it even easier to get licenses to export gas to the continent. However, this geostrategic scenario – designed in good part to address the increasing antagonism with Russia – raises global environmental concerns. Leaked documents reveal the dangers of TTIP for people and the struggle with climate change. The EU is looking to use TTIP as a means to get automatic, unrestrained access to US fracked gas and oil, with more climate-disrupting pollution globally, and increased dependence on fossil fuels. With respect



to third parties, leaked documents say that in the future an energy and raw materials chapter negotiated between the US and the EU could serve as a platform for each party's negotiations with energy and raw materials relevant to partners (such as Mexico, for instance). Therefore, an energy chapter negotiated under TTIP could set a dangerous precedent for future agreements with other countries, impeding them from managing their own energy and natural resources, and developing their own policies to tackle climate change. Nearly 200 civil society organizations have written to the EC and US trade representatives expressing their concerns regarding the potential of TTIP weakening various protections for the environment, health and consumer rights.

#### 14/ TTIP AND THE THREAT TO DIGITAL RIGHTS

TTIP is also a cause of concern for the digital rights of people. European Digital Rights (EDRi), a network of 34 privacy and civil rights organizations, has stated that TTIP represents a specific risk to digital rights which manifests itself most clearly in clauses covering: 1) ISDS and regulatory cooperation, 2) copyright and other so-called "intellectual property rights", and 3) the right to privacy and data protection in telecommunications, e-commerce and cross-border trade in services. According to EDRi, in recent years the EU and the US governments have been particularly involved in developing measures to encourage and/or coerce intermediaries not just to police online content, but even to impose sanctions, such as the unilateral suspension of services to online service providers that allegedly breach copyright law. The imposition of sanctions by intermediaries, outside the rule of law, undermines the presumption of innocence, the right to due process of law, and, depending on the policing methods used, the right to privacy and freedom of communication and of assembly. As a result, according to EDRi, the internet increasingly seems more like a weapon that undermines rights rather than a tool to foster them. As most of the global online companies are American, there is an obvious temptation for the US administration to pursue a strategy of having US law or public policy priorities imposed globally and "voluntarily" by US companies. The proposals for the Stop Online Piracy Act (SOPA) and the Anti-Counterfeiting Trade Agreement (ACTA) are examples of failed attempts to police the web outside of the rule of law.

#### 15/ TTIP AND THE UNDERMINING OF INTERNATIONAL TREATIES ON HUMAN RIGHTS

TTIP may possibly be contrary to fundamental international human rights law. The FoodFirst Information and Action Network (FIAN) issued a letter intended to intervene in the current negotiations of TTIP on the basis of international human rights law. The letter quotes the Maastricht Principle on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights, saying that, the magnitude of trade covered by TTIP (and the TPP) implies that any trade rules negotiated between the participating countries will ultimately have a strong influence over global trade rules and impact on peoples' lives in other countries. The negotiating parties therefore have an obligation to assess the human rights impact of the treaties not only in the participating countries but also in third countries. In conclusion, agreements like TTIP conflict with States' human rights obligations under international treaty law. According to the letter, all member States of the EU are States Parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR), and although the US is one of the very few countries which have not yet ratified the ICESCR, it has signed the treaty and hence must refrain from any act that would defeat its object and purpose. FIAN's letter also states that TTIP conflicts with the UN Charter and must not be applied, as well as with peremptory norms of international law which are therefore void. Finally, when negotiating trade agreements, the EU has the obligation to ensure that both the negotiations and texts fully comply with the EU Charter of Fundamental Rights, the European Convention of Human Rights and the International Covenant on Civil and Political Rights (ICCPR). Undoubtedly, TTIP negotiations present a new urgency for legal mechanisms that place international law privileging holistic human and environmental rights considerations above corporate rights. As reaffirmed in the letter, international human rights standards which provide universal values, are legally binding, and aim to promote human well-being, should be the benchmark for policy coherence.

